

Exhibit 71

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:14-CV-00954-LCB-JLW

STUDENTS FOR FAIR
ADMISSIONS, INC.,

Plaintiff,

vs.

UNIVERSITY OF NORTH
CAROLINA, et al.,

Defendants.

DEPOSITION
OF
MICHAEL KOSOROK

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TAKEN AT THE OFFICES OF:
THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
222 East Cameron Avenue
110 Bynum Hall
Chapel Hill, NC 27514

11-28-18
8:57 A.M.

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1 Q. Okay. Have you done an analysis then
2 that after doing something like that would then
3 attempt to put into that model a race neutral
4 strategy that's an alternative to race and
5 evaluating how that would work and the results ---

6 Q. The data anal -- anal -- analysis
7 subcommittee has not, using data analyzed a
8 specific race neutral alternative.

9 Q. Understood. I think that answered my
10 question. Thank you. Okay. Can we turn to page
11 4 of this same document -- about ---

12 A. Could I clarify something?

13 Q. Sure. Absolutely.

14 A. There is a data analysis that's in here
15 that Patrick Curran did ---

16 Q. Okay.

17 A. --- that addresses different questions.
18 I'm somewhat familiar with that analysis, but I do
19 not believe it -- it -- I believe that what I said
20 is still true for that analysis as well.

21 Q. Got it. Understood. Okay. So on
22 page 4, about halfway down on this page, the
23 document describes the charges of the three
24 subcommittees on the Committee on Race Neutral
25 Strategies. Do you see that?

1 A. Yes.

2 Q. Okay. And the second one there --
3 actually the number 2 -- describes the charge of
4 the data analytic subcommittee. Do you see that?

5 A. Yes.

6 Q. Okay. And that identifies you and
7 Mr. Curran as the co-chairs of that subcommittee,
8 correct?

9 A. Yes.

10 Q. Okay. So I'm going to read part of that
11 first sentence where it describes that charge. It
12 says that the committee, quote, "...was charged to
13 analyze whether race neutral alternatives
14 identified by the literature review subcommittee
15 are workable for the University."

16 A. Yes.

17 Q. I'll stop there. Did I read that
18 correctly?

19 A. Yes.

20 Q. Okay. So I understand that at least to
21 your knowledge the committee has not actually,
22 using data, analyzed whether any particular race
23 neutral strategy works or what the results would
24 be if using it, correct?

25 A. We haven't specifically analyzed data

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1 asking that question, but we've -- we have -- to
2 be very clear, we've done preparatory work and
3 other analyses that are needed before we can do
4 that.

5 Q. Understood. So one of the things I want
6 to ask about in terms of that preparatory work,
7 has the literature review subcommittee identified
8 alternatives that your committee has decided we
9 will evaluate that eventually once we're ready or
10 have you not gotten that far yet?

11 A. Well, there's parts to your question --
12 the -- the -- the literature did identify some
13 race neutral strategies, some of which were
14 determined to be, as I recall, not viable for
15 various reasons. I do not recall all of those
16 reasons. And we are considering those strategies,
17 but we haven't gotten to the point where we are
18 evaluating as a data analytic subcommittee
19 specific -- specific -- specific strategies.

20 Q. Understood. So going back to something
21 you mentioned about the literature review
22 subcommittee, you said they have identified some
23 race neutral strategies and some of those that
24 they've identified have been deemed not applicable?

25 A. Well, they're at least problematic and I

1 Q. Okay. It reads, "Key findings reflect
2 that although underrepresented minority status was
3 uniquely predictive of admission, this was just
4 one of a larger number of unique predictors." Did
5 I read that correctly?

6 A. Yes.

7 Q. Okay. What does it mean that URM status
8 -- and by URM I mean, underrepresented minority --
9 what does it mean that that status was uniquely
10 predictive of admissions?

11 MS. FLATH: Objection.

12 A. My -- this is not precisely how I would
13 word it although I had an opportunity to revise
14 it, I chose not to, but what it refers to in my
15 understanding is it refers to statistical
16 significance of the effect.

17 Q. And -- and what specifically?

18 A. In this case, there are variables --
19 when you say, "specifically," do you mean the
20 underrepresented minority status part?

21 Q. Yes. So I'm ask -- so I'm trying to
22 figure out here this -- this report describes
23 underrepresented minority status as uniquely
24 predictive of admission. And I'm trying to
25 understand what that phrase, "uniquely predictive

1 of admissions," means.

2 A. Yes. In this situation ---

3 Q. Uh-huh (yes).

4 A. --- my understanding and recollection to
5 the best of my ability is that this refers to the
6 coefficient in the equation being statistically
7 significant ---

8 Q. Okay.

9 A. --- for that variable in question.

10 Q. Which in layman's terms, what does that
11 mean?

12 A. Well, there are different criteria for
13 statistical significance and it varies. A most
14 common one would be .05 level, so statistical
15 significance usually means below that.

16 Q. Okay. So ---

17 A. But it doesn't -- but .05 is not a magic
18 number. It can be a -- it -- it can be more vague
19 than that.

20 Q. Okay. So ---

21 A. I'm sorry. It can be different numbers
22 than .05. It's usually specified much of the
23 time.

24 Q. Understood. Understood. Okay. So if
25 the coefficient for URM status is statistically

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1 A. I just know that the larger it is, it
2 has a bigger impact, smaller has a smaller impact.

3 Q. Okay. So this is what you mean by
4 variable importance, which is the header of these
5 two little tables?

6 A. That is correct.

7 Q. So the larger change in the accuracy of
8 the model based on the removal of the -- that
9 variable the more important the variable is in
10 terms of this exhibit?

11 A. That is correct.

12 Q. Okay. So in other words, residence is
13 the most important variable by that analysis,
14 correct?

15 A. Yes.

16 Q. Okay. What is the practical import of
17 that?

18 MS. FLATH: Objection.

19 Q. (Mr. McCarthy) And maybe I can ask it
20 another way because I'm trying to understand.
21 Does that mean that being a North Carolina
22 resident has more effect on an applicant's
23 admission chances than any other of these
24 characteristics here?

25 A. Generally speaking it means that it has

1 a large impact by itself compared to the other
2 ones -- large impact by itself compared to the
3 other ones.

4 Q. Okay. So by itself, considering all of
5 these individually, it has a larger effect than
6 these other ones?

7 A. According to these analyses.

8 Q. According to these analyses. Okay.
9 Would there be other analyses that would suggest
10 that that's not the case?

11 A. Potentially.

12 Q. Okay. Why would it show residence to be
13 more important under one kind of analysis and then
14 not as important under another kind of analysis?

15 A. There are many possible ways that that
16 could happen.

17 Q. Is it because there are numerous
18 different ways to measure what you described as
19 importance?

20 A. That's part of it. There are numerous
21 ways, but there are other factors as well.

22 Q. What would those factors be?

23 A. An example would be, how a variable
24 might interact with other variables. In the
25 presence of interaction you might have a variable